



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	07/17/03	Bill No:	AB 1740
Tax:	Franchise Tax	Author:	Assembly Revenue and Taxation Committee
Board Position:	Section 5: Support – Board sponsored	Related Bills:	

BILL SUMMARY

This bill would, among other things, provide a rebuttable presumption that the state personal income tax late filing penalty does not apply when, under certain circumstances, the corresponding federal late filing penalty is determined not to apply.

Summary of Amendments

The previous versions of this bill did not contain any provisions related to tax programs administered by the Board.

ANALYSIS

Current Law

Under current Section 19131 of the Revenue and Taxation Code, a penalty is imposed when a taxpayer fails to file an income tax return on or before its due date (determined with regard to extensions), unless the failure is due to reasonable cause and not due to willful neglect. The Franchise Tax Board may assess past due tax obligations for a period as far back as eight years.

Proposed Law

This bill would amend Section 19131 to create a presumption that the late filing penalty does not apply when the taxpayer has filed a federal return after its due date, the Franchise Tax Board proposes a deficiency based upon a final federal determination, and the Internal Revenue Service abates the federal late filing penalty based upon reasonable cause. The Franchise Tax Board may rebut the presumption by establishing, through a preponderance of the evidence, that the late filing of the California return was not due to reasonable cause or was due to willful neglect.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

COMMENT

Purpose. This provision is sponsored by the Board of Equalization in an effort to reduce the number of penalty abatement appeals filed. The Board of Equalization has routinely held for the taxpayer in these types of appeals and it would be more efficient for the state if the Franchise Tax Board only sought the penalty when the preponderance of the evidence indicates a penalty is justified. This provision is intended to treat taxpayers in a manner consistent with federal income tax laws.

COST ESTIMATE

Enactment of this measure would result in minimal absorbable costs.

REVENUE ESTIMATE

According to information from the Franchise Tax Board, there are very few penalties currently assessed that would be impacted by this provision of the bill. The revenue loss would be negligible.

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